

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS DIVISION

ANTHONY OLIVE, #B45286, )  
Plaintiff, )  
vs. )  
DONALD N. SNYDER, et al., )  
Defendants. )

No. 02-945-WDS

**DEFENDANTS' RESPONSE TO PLAINTIFF'S  
SECOND MOTION TO COMPEL DISCOVERY**

NOW COME the Defendants, KEITH ANDERSON, TOM CARAWAY, ROGER COWAN, KLINT GALE, GARY KNOP, THOMAS MAUE, BRAD MEYERHOFF, LORI OAKLEY, and JOSEPH C. PHOENIX, and hereby respond to Plaintiff's Motion to Compel Discovery [Court Document #84]:

1. Plaintiff filed his 42 U.S.C. §1983 Complaint on August 15, 2002. [Court Document #1].
  2. Plaintiff filed a Motion to Compel Discovery on June 10, 2008. [Court Document #84].
  3. Defendants received Plaintiff's First Request for Production of Documents on November 7, 2007 and responded to Plaintiff's discovery request on December 4, 2007.
  4. Defendants received Plaintiff's First Set of Interrogatories on December 14, 2007 and responded to the interrogatories on January 15, 2008.
  5. Plaintiff sent additional interrogatories and requests for production of documents on both January 30, 2008 and February 4, 2008. Plaintiff's interrogatories and

requests to produce were combined in one document and indistinguishable as to whether the request set forth was an interrogatory or request to produce.

6. Defendants requested an enlargement from the Court to respond to Plaintiff's discovery request on February 29, 2008. [Court Document #69]. The Court granted Defendants' request in a March 18, 2008 Text Order.

7. The undersigned contacted Plaintiff via letter on March 31, 2008 requesting Plaintiff clarify which questions were interrogatories and which questions were requests to produce. The undersigned informed Plaintiff that his previous interrogatories exceeded the amount permitted by Federal Rule of Civil Procedure 33(a)(1).

8. Plaintiff responded to the undersigned's letter on April 3, 2008.

9. Defendants assert that pursuant to the Federal Rules of Civil Procedure, Plaintiff is entitled to serve no more than 25 written interrogatories, including discrete subparts, on Defendants. Fed. R. Civ. P. 33(a)(1). Defendants responded to previous interrogatories that exceeded 25 written interrogatories and their discrete subparts. Plaintiff's second set of interrogatories exceeds the number of interrogatories permitted by the Federal Rules of Civil Procedure.

10. Plaintiff's first set of Interrogatories for Defendant Cowan included 21 interrogatories with approximately 30 discrete subparts. Plaintiff's first set of Interrogatories for Defendant Knop included 21 interrogatories with approximately 15 discrete subparts. Plaintiff's first set of Interrogatories for Defendant Maue included 17 interrogatories with approximately 23 discrete subparts. Plaintiff's first set of Interrogatories for Defendant Caraway included 15 interrogatories with approximately 15 discrete subparts. Plaintiff did not request leave to serve Defendants with interrogatories

in excess of 25, however, Defendants responded to each interrogatory presented in Plaintiff's first set of Interrogatories.

11. Attached to this document are Defendants' responses and objections to Plaintiff's discovery requests dated January 30, 2008 and February 4, 2008.

12. Defendants assert that they have complied with Plaintiff's discovery requests even though they were improperly served.

WHEREFORE, for the above reasons, Defendants respectfully pray that this honorable Court deny Plaintiff's Motion to Compel.

Respectfully submitted,

KEITH ANDERSON, TOM CARAWAY,  
ROGER COWAN, KLINT GALE, GARY  
KNOP, THOMAS MAUE, BRAD  
MEYERHOFF, LORI OAKLEY, and JOSEPH  
C. PHOENIX,

Defendants,

LISA MADIGAN, Attorney General,  
State of Illinois

Ellen C. Bruce, #6288045  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9026

Of Counsel.

Attorney for Defendants,

By: /s/ Ellen C. Bruce  
ELLEN C. BRUCE  
Assistant Attorney General

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Defendants. )

## **CERTIFICATE OF SERVICE**

I hereby certify that on June 30, 2008, I electronically filed Defendants' Response to Plaintiff's Second Motion to Compel with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to the following:

None

and I hereby certify that on June 30, 2008, I mailed by United States Postal Service, the document(s) to the following non-registered participant(s):

Anthony Olive, #B45286  
Western Illinois Correctional Center  
2500 Route 99 South  
Mt. Sterling, Illinois 62353

Respectfully Submitted,  
/s/ Ellen C. Bruce  
Ellen C. Bruce  
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